IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

Crl.MC.No. 3507 of 2006()

S.T.719 OF 2006 OF THE PRINCIPAL MUNSIFF COURT, J.F.M.C VI, TRIVANDRUM (PREVIOUSLY CC.269/2004 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM)
OS.155/2006 of ASSISTANT SESSIONS COURT, NEYYATTINKARA

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PETITIONER: ACCUSED

P.KUMARASWAMY,
PADMAKUMAR BHAVAN, NRA-8, NILAMEL DESOM,
NEYYATTINKARA, THIRUVANANTHAPURAM.

BY ADV. SRI.B.S.SWATHY KUMAR
SMT.P.A.ANITHA

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. M.ALOYSIUS,
TREESIUS HOME, NRA-14, NILAMEL,
NEYYATTINKARA, THIRUVANANTHAPURAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR
SRI.SUMAN CHAKRAVARTHY

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3507 OF 2006

Dated this the 19th day of December, 2006.

ORDER

The petitioner is the accused in a prosecution under Section 138 of the N.I Act. Cognizance has been taken. The petitioner has not appeared before the learned Magistrate, but has come to this Court with this petition with a prayer that the proceedings against him may be quashed under Section 482 Cr.P.C.

2. What is the reason ? The learned counsel for the petitioner submits that there was no transaction between the parties for the amount of Rs.5 lakhs shown in the cheque. He further contends that a letter has been issued by the complainant to the accused, a copy of which is produced as Annexure-C, in which crucial admissions have been made by the complainant.

3. I am of opinion that it is for the petitioner to raise all contentions regarding the genuineness and validity of the cheque before the learned Magistrate in the course of the trial. In proceedings under Section 482 Cr.P.C, the disputed question as to whether Annexure-C, the alleged receipt issued by the

complainant is genuine or acceptable, cannot obviously be resolved. It is for the petitioner to appear before the learned Magistrate and raise all relevant and appropriate contentions before the learned Magistrate. I do not intend to embark on any detailed discussion of the disputed facts. Suffice it to say that I find no reason to justify the prayer for invocation of the extraordinary inherent jurisdiction available to this Court under Section 482 Cr.P.C.

4. In the result, this Crl.M.C is, dismissed. I may hasten to observe that the dismissal of this Crl.M.C will not in any way fetter the rights of the petitioner to raise all appropriate and relevant contentions before the learned Magistrate.

R.BASANT
JUDGE

rtr/